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PREAMBLE TO CONSTITUTION OF THE LEAGUE OF NATIONS.

At the peace conference in Paris, a draft of a constitution for the league of nations has been submitted and is now being considered. The terms of that instrument have been submitted to the American people. We must carefully consider and discuss those terms; for when a constitution is finally adopted, the United States will be subject to its provisions, and must abide by its regulations.

As an earnest advocate of a league of nations, the following suggestions are made in the effort to aid in securing the best fundamental instrument for world government, through friendly criticism of the plan now proposed, and through suggestions of changes that seem to be desirable.

The "Covenant-Preamble" of the proposed constitution reads as follows:

"In order to promote international co-operation and to secure international peace and security by the acceptance of obligations not to resort to war, by the prescription of open, just, and honorable relations between nations, by the firm establishment of the undertakings of international law as the actual rule of conduct among governments, and by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another, the powers signatory to this covenant adopt this constitution of the league of nations."

The declared purposes of the constitution are here set forth as two, viz:

1. To promote international co-operation and
2. To secure international peace and security.

Following this statement of purposes, there are set forth four methods by which these objects are to be attained, viz:

1. By the acceptance of obligations not to resort to war.
2. By the prescription of open, just, and honorable relations between nations.

3. By the firm establishment of the undertakings of international law as the actual rule of conduct among governments.

4. By the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another.

It is a general rule of statutory construction that the title of an act shall fully and accurately set forth its purposes. Moreover, in construing the meaning and scope of the provisions of this constitution, and the powers thereby conferred, consideration must necessarily be given to the preamble, where occurs a solemn statement of its purposes, and a declaration of the means to be used in carrying out those purposes. The instrument will be strictly construed. The nations composing the league will insist that no powers are granted, except those specifically conferred, all other powers being reserved by the member nations to themselves. In consequence, the general declaration of purposes, and of means to accomplish those purposes, should be broad enough to cover the provisions contained in the instrument itself, so as to assure the giving of full force and effect to those provisions.

No agreement between parties can be reached, unless there is a starting point. There must be certain principles of right, justice and fair dealing as the basis of any contract. As between individuals, these principles are usually established by custom and by the constitutions and laws of their respective countries. As between nations, for fear of a misunderstanding, it is wise that these principles be agreed on and specifically declared.

In the drafting of constitutional instruments, it has therefore been found desirable to preface the instrument with a statement of fundamental rights, conceded as the result of the experience of mankind, and on the basis of which the constitution or governing instrument is constructed. A most striking instance of this is found in the Virginia Bill of Rights, which is a statement of fundamental principles, adopted by Virginia as a preliminary to the adoption of a constitution. When the constitution of the United States was adopted, no such prelim-

inary declaration was made. The necessity for this became immediately apparent, and the first ten amendments to the constitution were at once proposed and adopted—these amendments being practically a declaration of fundamental rights.

The adoption of a separate preliminary statement of rights might be difficult in the present case. But the same result can be attained by a full declaration in the preamble of the purposes in view, and of the means to be used to accomplish those purposes. For, in declaring its purposes and the means of effecting them, the league necessarily vouches for the righteousness of those purposes, and the fairness and justice of those means. It accepts and declares these purposes as the controlling motives for its organization. It formulates the means of accomplishing those purposes, as the just and fair method to proceed. It thereby establishes and recognizes the fundamental principles upon which its covenant is based.

Moreover, the peoples of the world are asked to subscribe to and become bound by this agreement. Few of them will study in detail the provisions of the constitution. Many could not understand them in any case.

But what they want to know, before binding themselves, is what are we trying to do? What are the objects and purposes of this proposed league? What are the general means to be employed in carrying them out? To what fundamental principles and procedure are we committing ourselves? These purposes and means should be fully and clearly stated in the preamble, which should be in effect a declaration of principles.

The preamble as formulated declares two purposes and specifies four means of accomplishing those purposes. So far as it goes, it is admirable, but it does not go far enough. It does not even fairly indicate many of the provisions contained in the body of the instrument.

An alternative form of preamble is suggested as set out below, setting forth four general purposes and fourteen means of accomplishing these purposes. The separation and numbering of the clauses is merely as an aid to a clearer understanding.

SUGGESTED PREAMBLE.

(PURPOSES) :

In order

- (1) to establish national liberty and international justice throughout the world,
- (2) to ensure to all nations
 - (a) freedom from persecution or oppression by other nations,
 - (b) the right to a national life, and to
 - (c) the pursuit of national happiness and prosperity ;
- (3) to end international wars ; and
- (4) to promote the welfare of mankind.

(MEANS OF ACCOMPLISHING THESE PURPOSES) :

And, for the accomplishment of these purposes, to secure international co-operation,

- (1) by recognizing as the fundamental principle of government that all power is vested in, and consequently derived from, the people ; and that their temporary rulers are their trustees and servants, and at all times are amenable to them,
- (2) by the prescription of open, just and honorable relations between nations,
- (3) by the ascertainment and firm establishment of international laws as the rule of conduct among governments,
- (4) by the establishment of an international tribunal for construing such laws, with suitable provisions for enforcing its decrees,
- (5) by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another,
- (6) by the abolition of secret diplomacy, the publication of all treaties, and an agreement that no secret treaty shall be binding,
- (7) by the acceptance by the individual members of the league of obligations not to resort to war with one another,
- (8) by recognizing and declaring wars of aggression to be international crimes, punishable as such,

- (9) by the limitation of national armaments, and of the national manufacture of munitions of war and the consequent relief of humanity from the burden of taxation necessary for the maintenance of great armies and navies,
- (10) by the international control of the volume of manufacture of munitions of war by individual enterprise,
- (11) by the international appointment of mandatory nations as trustees for the control and administration of backward and undeveloped colonies, territories and peoples, in the interest primarily of their own inhabitants, and secondarily of the members of the league of nations; such trustee nations to act under charters from the league of nations, to which they shall report and be accountable,
- (12) by the development of closer economic, business, financial and social relations, the promotion of intercommunication and intercourse, and the encouragement of a wider and more accurate knowledge of national ideals and aspirations among the members of the league of nations,
- (13) by endeavoring to maintain and secure fair and humane conditions of labor for men, women and children throughout the world,
- (14) by pledging the good faith and the resources of the members of the league of nations to the maintenance of its principles and to the support and enforcement of its constitution, the powers signatory to this covenant adopt this constitution of the league of nations.

Of the means enumerated, Nos. 2 and 5 are taken verbatim from the suggested draft of the constitution. No. 3 is identical with one of the provisions of that instrument, except that it provides for the "ascertainment" as well as the "firm establishment" of international laws. The present uncertainty as to what is international law can only be solved by its codification and adoption by the league. No. 7 is the same as one of the provisions of the draft of the constitution already suggested except that it involves the acceptance only by individual members of the league of the obligation not to resort to war with one another, leaving the league, as such, free to resort to war in order to enforce the terms of the constitution.

It will thus be seen that every means outlined in the preamble of the constitution now being considered, is incorporated in

the above suggested alternative form, subject to the modifications stated. In addition, ten additional means for carrying out the declared purposes are adopted. These are self-explanatory, and many of these are provided for in the body of the proposed instrument, although not expressed in its preamble. The wisdom of a formal adoption of these means for carrying out the purposes of the league can readily be judged from a careful reading of the same.

The four purposes here enumerated are much broader than the two enumerated in the preamble of the proposed constitution; but those two purposes are embraced in the same.

Does not this amended preamble more fully and correctly set forth the principles for which America fought; the principles on which the peoples of the world agree; and the principles on which a league of nations should be based? Is it not wise to preface the constitution with this full and frank statement of purposes, and with this enumeration of the general means of accomplishing those purposes? Is it not wise to commit the members of the league in the beginning to a declaration of fundamental principles? Are not these the principles, for the permanent establishment of which the nations are willing to enter into a solemn compact?

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